

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 4088 of 1998

Dated: 01-08-2005

Between:

M.Laxminarasaiah, S/o. M. Narayana,
H.No. 11-134, New Gaddiannaram, Sahitinagar,
Hyderabad-500660.

..... PETITIONER

AND

- 1 The Labour Court-III, Represented by its Presiding officer.
Hyderabad
- 2 The Depot Manager, A.P.S.R.T.C., Tandur Depot,
Tandur.

.....RESPONDENT(S)

THE HONOURABLE SRI JUSTICE C.V.RAMULU

W.P.No.4088 of 1998

ORDER:

This writ petition is filed by the workman being aggrieved by the Award passed in I.D.No.62 of 1992 dated 27-3-1993 on the file of the Labour Court III,

Hyderabad, in so far as not granting back wages and further imposing a punishment of stoppage of five increments with cumulative effect.

It is the case of the petitioner that he was appointed as a Conductor in APSRTC in the year 1978 and was attached to APSRTC Bus Depot, Tandur. While conducting bus service APZ 9942 on the route Hyderabad-Tandur on 7-11-1982, a check was exercised at stage No.12/11 and certain cash and ticket irregularities were found. A charge memo was issued on the spot on 7-11-1982. Basing on the charge memo, he was placed under suspension on 11-11-1982 and charge sheet was issued on 12-11-1982. As per the charge sheet, he violated the rule issue and start and also failed to issue ticket to six passengers having collected the requisite fare at stage No.15 who are found alighting when check was exercised at stage No.12/11. The petitioner gave a detailed explanation. Having not satisfied with the explanation the management has ordered for detailed enquiry. The enquiry officer submitted the report holding the petitioner is guilty of the charges. On the basis of the enquiry officer's report, the

disciplinary authority issued a show cause notice and after completing the formalities issued the proceedings dated 13-7-1983 removing the petitioner

from the service. Thereafter, having no other option, the petitioner filed a claim petition under Section 2 A (2) of the Industrial Disputes Act before the Labour Court,III, Hyderabad which was taken on file as I.D.No.62 of 1992. According to the petitioner, Labour Court though came to the conclusion that the punishment of removal was not justified granted only the relief of reinstatement with continuity of the service and however, denied the back wages and further directed to impose a punishment of stoppage of five increments with cumulative effect. The labour court ought to have granted in the given circumstances of the case, the other reliefs such as back wages and ought not to have directed to impose punishment of stoppage of five increments with cumulative effect. Hence, this writ petition.

Though no counter is filed, the learned counsel for the respondent strenuously contended that the Award passed by the Labour Court is just and proper and does not call for interference by this court under Article 226 of the constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the Award passed by the labour court and other material made available on record.

At the outset, I am of the opinion that the labour Court has not committed any infirmity calling for interference under Article 226 of the Constitution of India.

The petitioner was appointed in the year 1978 and he involved in several similar misconducts and in fact, he was punished earlier. He was censured for five times and thrice increments were deferred. In the present misconduct, though he had collected requisite fare of Rs.1-50ps from six passengers failed to issue ticket to them when the check was conducted at Stage 12/11. Thus the explanation of the petitioner that the passengers were in intoxicated condition and therefore, he could not issue tickets was not believed by the management as well as the labour court and found that the charges are proved and though the charges are proved, the punishment of removal from service was found to be disproportionate that of the misconduct and as such directed reinstatement of the petitioner into service with continuity of service but without any back wages and further directed to impose punishment of stoppage of five increments with cumulative effect. Admittedly, the petitioner was appointed in the year 1978 and when the present misconduct was noticed, by that time he has already suffered more than six punishments. The labour court however took a lenient view and directed reinstatement of the petitioner with continuity of service, I am of the opinion that the labour court has taken a lenient view of the matter even while directing the reinstatement by granting continuity of service. Further, it may be noticed that the petitioner was removed from service on 13-7-1983, he raised a dispute by filing petition under Section 2A(2) only in the year 1987 with delay of more than four years. Further, the I.D. was disposed of on 27-3-1993 and the present writ petition filed on 5-2-1998 with delay of more than five years. Therefore, I am of the opinion that the labour court has not committed any error in denying the back wages and also further directing to impose the punishment of stoppage of five increments with cumulative effect.

The writ petition is devoid of merit and is liable to be dismissed. Accordingly,

the Writ petition is dismissed. No costs.

C.V.RAMULU,J

01-08-2005

Stp